

laboratory at which samples of diesel fuel collected at the terminal are analyzed, and must be allowed to conduct inspections, review records, collect diesel fuel samples and perform audits. These inspections or audits may be either announced or unannounced.

(f) *Certified DFR-Diesel*. This section does not apply to Certified DFR-Diesel as defined in § 80.620.

(g) *Effect of noncompliance*. If any of the requirements of this section are not met, all motor vehicle diesel fuel and NRLM diesel fuel imported by the truck or rail car importer during the time the requirements are not met is deemed in violation of the 15 ppm sulfur diesel fuel standards in § 80.510(b) or (c) or § 80.520(a), as applicable. Additionally, if any requirement is not met, EPA may notify the importer of the violation, and, if the requirement is not fulfilled within 10 days of notification, the truck importer may not in the future use the sampling and testing provisions in this section in lieu of the provisions in § 80.581.

[69 FR 39186, June 29, 2004]

§ 80.584 What are the precision and accuracy criteria for approval of test methods for determining the sulfur content of motor vehicle and NRLM diesel fuel?

(a) *Precision*. (1) For motor vehicle diesel fuel and diesel fuel additives subject to the 15 ppm sulfur standard of § 80.520(a)(1) and NRLM diesel fuel and diesel fuel additives subject to the 15 ppm sulfur standard of § 80.510(b) and (c), a standard deviation less than 0.72 ppm, computed from the results of a minimum of 20 repeat tests made over 20 days on samples taken from a single homogeneous commercially available diesel fuel with a sulfur content in the range of 5–15 ppm. The 20 results must be a series of tests with a sequential record of the analyses and no omissions. A laboratory facility may exclude a given sample or test result only if the exclusion is for a valid reason under good laboratory practices and it maintains records regarding the sample and test results and the reason for excluding them.

(2) For motor vehicle diesel fuel subject to the 500 ppm sulfur standard of § 80.520(c), and for NRLM diesel fuel

subject to the 500 ppm sulfur standard of § 80.510(a), of a standard deviation less than 9.68 ppm, computed from the results of a minimum of 20 repeat tests made over 20 days on samples taken from a single homogeneous commercially available diesel fuel with a sulfur content in the range of 200–500 ppm. The 20 results must be a series of tests with a sequential record of the analyses and no omissions. A laboratory facility may exclude a given sample or test result only if the exclusion is for a valid reason under good laboratory practices and it maintains records regarding the sample and test results and the reason for excluding them.

(b) *Accuracy*. (1) For motor vehicle diesel fuel and diesel fuel additives subject to the 15 ppm sulfur standard of § 80.520(a)(1) and NRLM diesel fuel and diesel fuel additives subject to the 15 ppm sulfur standard of § 80.510(b) and (c):

(i) The arithmetic average of a continuous series of at least 10 tests performed on a commercially available gravimetric sulfur standard in the range of 1–10 ppm sulfur shall not differ from the accepted reference value (ARV) of that standard by more than 0.54 ppm sulfur;

(ii) The arithmetic average of a continuous series of at least 10 tests performed on a commercially available gravimetric sulfur standard in the range of 10–20 ppm sulfur shall not differ from the ARV of that standard by more than 0.54 ppm sulfur; and

(iii) In applying the tests of paragraphs (b)(1)(i) and (ii) of this section, individual test results shall be compensated for any known chemical interferences.

(2) For motor vehicle diesel fuel subject to the 500 ppm sulfur standard of § 80.520(c), and for NRLM diesel fuel subject to the 500 ppm sulfur standard of § 80.510(a):

(i) The arithmetic average of a continuous series of at least 10 tests performed on a commercially available gravimetric sulfur standard in the range of 100–200 ppm sulfur shall not differ from the ARV of that standard by more than 7.26 ppm sulfur;

(ii) The arithmetic average of a continuous series of at least 10 tests performed on a commercially available

gravimetric sulfur standard in the range of 400–500 ppm sulfur shall not differ from the ARV of that standard by more than 7.26 ppm sulfur; and

(iii) In applying the tests of paragraphs (b)(2)(i) and (ii) of this section, individual test results shall be compensated for any known chemical interferences.

[69 FR 39187, June 29, 2004]

§ 80.585 What is the process for approval of a test method for determining the sulfur content of diesel?

(a) *Approval of test methods approved by voluntary consensus-based standards bodies.* For such a method to be approved, the following information must be submitted to the Administrator by each test facility for each test method that it wishes to have approved: Any test method approved by a voluntary consensus-based standards body, such as the American Society for Testing and Materials (ASTM) or International Standards Organization (ISO), shall be approved as a test method for determining the sulfur content of diesel fuel if it meets the applicable accuracy and precision criteria under § 80.584. The approval of a test method is limited to the single test facility that performed the testing for accuracy and precision. The individual facility must submit the accuracy and precision results for each method, including information on the date and time of each test measurement used to demonstrate precision, following procedures established by the Administrator.

(b) *Approval of test methods not approved by a voluntary consensus-based standards body.* For such a method to be approved, the following information must be submitted to the Administrator by each test facility for each test method that it wishes to have approved:

(1) Full test method documentation, including a description of the technology and/or instrumentation that makes the method functional.

(2) Information demonstrating that the test method meets the applicable accuracy and precision criteria of § 80.584, including information on the date and time of each test measurement used to demonstrate precision.

(3) If requested by the Administrator, test results from use of the method to analyze samples of commercially available fuel provided by EPA.

(4) Any additional information requested by the Administrator and necessary to render a decision as to approval of the test method.

(c) *Sample retention.* Samples used for precision and accuracy determination must be retained for 90 days.

(d) *EPA approval.* (1) Within 90 days of receipt of all materials required to be submitted under paragraph (a) or (b) of this section, the Administrator shall determine whether the test method is approved under this section.

(2) If the Administrator denies approval of the test method, within 90 days of receipt of all materials required to be submitted under paragraph (a) or (b) of this section, the Administrator will notify the applicant of the reasons for not approving the method. If the Administrator does not notify the applicant within 90 days of receipt of the application, that the test method is not approved, then the test method shall be deemed approved.

(3) If the Administrator finds that an individual test facility has provided false or inaccurate information under this section, upon notice from the Administrator the approval shall be void *ab initio*.

(4) The approval of any test method under paragraph (b) of this section shall be valid for five years from the date of approval by the Administrator and shall not be extended. If the method is later approved by a voluntary consensus-based standards body, the approval shall remain valid as long as the conditions of paragraph (a) of this section are met.

(e) *Quality assurance procedures for sulfur measurement instrumentation.* A test shall not be considered a test using an approved test method unless the following quality control procedures are performed separately for each instrument used to make measurements:

(1) Follow all mandatory provisions of ASTM D 6299-02 and construct control charts from the mandatory quality control testing prescribed in paragraph 7.1 of the reference method, following guidelines under A 1.5.1 for individual